

REMARKS

Applicants respectfully request reconsideration of the present application in view of the reasons that follow. No claims are currently being amended. Claims 1-18 remain pending in this application.

Rejections under 35 U.S.C. §§ 102 and 103

Claims 1, 3, 4, 6, 7, 13, 14 and 17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,953,707 to Huang et al. (“Huang”). Claims 2 and 8-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang in view of U.S. Patent 5,765,143 to Sheldon et al. (“Sheldon”). Claims 5 and 15-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang. Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang in view of U.S. 2003/0130883 A1 to Schroeder et al. (“Schroeder”). Applicants respectfully traverse these rejections for at least the following reasons.

Independent claim 1, recites:

A computer implemented method of product ordering and inventory repositioning for a promotion in a supply chain management system utilizing a network, comprising:

obtaining, *during a current product sales promotion*, via the network from a plurality of stores in a first region, each store associated with a respective distribution center within the first region, point of sale data for a first period of time less than a length of time allotted for a current product sales promotion;

causing, *during the current product sales promotion*, a computer calculation of *a product demand level over a remaining period of the current product sales promotion* for stores associated with at least one distribution center *based on an outlook model and the point of sale data*;

causing, during the current product sales promotion, a computer calculation of a product amount for the at least one distribution center based at least in part on the calculated product demand level for stores associated with the at least one distribution center; and

taking, during the current product sales promotion, an electronic action based on the product amount for the at least one distribution center.

Thus, in claim 1, POS data is obtained during a current product sales promotion, and a computer is caused to calculate during the promotion a product demand level over a remainder of the current product sales promotion based on the POS data obtained during the

current promotion. Thus, the method of claim 1 provides a fluid analysis of a product demand in real-time using POS data during the sales promotion itself to determine any product demand changes during that sales promotion. Huang, which is more directed to a batch analysis using past POS data from a past promotion, and the remaining references applied in the rejection of the claims, fail to disclose at least this feature of claim 1.

Huang discloses a decision support system for the management of an agile supply chain (Title). Huang discloses analyzing market data and past demand history to estimate future demand requirements (col. 19, lines 31-34). The outputs of the Demand Management of Huang include the analysis of past history, future forecasts, and analysis of sales promotions (col. 19, lines 34-37). Huang also discloses in cols. 52 and 53 determining the effect of past and future promotions where the time period of the promotion is a parameter. Huang further discloses in col. 79, rolling horizon planning where production and delivery plans are made frequently using updated information about demands and production capacities. The rolling horizon planning estimates are based on a higher level of detail such as more detailed capacity constraints and setting of non-delivery periods.

In contrast to claim 1, however, Huang does not disclose calculating during a promotion a product demand level over a remainder of the current product sales promotion based on the POS data obtained during the current product sales promotion. While Huang discusses the effect of past or future sales promotions in cols. 52 and 53, and rolling horizon planning in col. 79, nowhere does Huang disclose using POS data obtained during a current sales promotion to determine the product demand level over a remainder of the current sales promotion. The POS data in Huang are from a past promotion, not from the current promotion. Nowhere does Huang disclose that its rolling horizon planning is used to determine a product demand level over a remainder of a current sales promotion based on POS data obtained during the promotion. The rolling horizon planning of Huang is not directed to determining product demand level over a remaining portion of a promotion using POS data from the promotion collected during the promotion.

Indeed, the Huang approach regarding determining demand during a sales promotion is very different from that in claim 1. In Huang the demand during a sales promotion is determined based on past POS data from a past promotion. Huang determines the demand

level for a promotion prior to the promotion based on past POS data from a different promotion, and does not suggest in any manner revising his demand estimates during the promotion itself based on POS data collected during the promotion itself. Huang does not provide a fluid real-time approach as is the case in claim 1, where revisions to the demand level may be made during the promotion as POS data for the promotion is collected.

Nowhere does Huang suggest that the models used in his approach are fluid and real-time to determine demand during a current sales promotion or that his models used are even adapted to provide a revised demand level based on POS data collected during the promotion itself. Rather, the Huang approach is to provide batch statistical analysis based on historical results of past promotions, and determine the demand for an entire upcoming promotion prior to the promotion itself. This is very different from the fluid real-time approach of claim 1, where revisions to the demand level during a promotion may be made on the fly based on data collected during the promotion itself.

The Patent Office states on page 3:

The demand forecasting, product ordering, and inventory repositioning taught by Huang can be carried out at any time, and indeed, contains algorithms for doing so specifically for the short-term, specifically during planning horizons, such as promotion periods. Col. 7, lines 45-53 of Huang teaches short-term, rolling horizon planning, which enables “taking into advantage updated information about demands and production capacities.”

Applicants submit, however, that nowhere does Huang suggest that its horizon planning is to be for a current sales promotion, much less based on POS data obtained during the current promotion. The rolling horizon planning merely allows for a shorter planning horizon based on a higher level of detail such as more detailed capacity constraints and setting of non-delivery periods. While Huang discusses promotions in cols. 52 and 53, this disclosure is in the context of determining the effect of promotions based on POS data collected in the past, and does not disclose any obtained POS data during a current sales promotion, nor calculating a product demand level over a remainder of the current product sales promotion based on the so obtained POS data. Further, while Huang discloses rolling horizon planning in col. 79, Huang does not disclose its rolling horizon planning to be based

on POS data collected during a current sales promotion, much less to determine the demand for the remainder of the current sales promotion.

The remaining references applied in the rejection of the claims were cited for other features of the claims, but fail to cure the deficiencies of Huang.

The dependent claims are patentable for at least the same reasons as independent claim 1, upon which they depend, either directly or indirectly, as well as for further patentable features recited therein.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date December 28, 2009

By Thomas G. Bilodeau

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5485
Facsimile: (202) 672-5399

William T. Ellis
Attorney for Applicant
Registration No. 26,874

Thomas G. Bilodeau
Attorney for Applicant
Registration No. 43,438